

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROCKY L. FREEMAN,	:	CIVIL NO. 1:16-CV-2422
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
UNITED STATES BUREAU OF	:	
PRISONS, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 30th day of January, 2018, upon consideration of plaintiff's complaint (Doc. 1) against the United States Probation Office, the Federal Bureau of Prisons, and individual defendants Lincalis, McCarthy, Brighton, and Fox, pursuant to the Federal Tort Claims Act ("FTCA") for Privacy Act violations, and upon consideration of defendants' motion (Doc. 26) to dismiss, wherein they seek dismissal of the complaint for lack of jurisdiction because the Privacy Act only allows suits against government agencies, not against individual employees, the United States Probation Office and its employees are not agencies under the Privacy Act, and the Bureau of Prisons' central record system is exempted from the Privacy Act, and upon further consideration of plaintiff's response (Doc. 33) to defendants' motion to dismiss wherein he concedes that his Privacy Act claims are not actionable and wishes to "withdraw his action" pursuant to the Privacy Act, and, instead, requests leave (Doc. 24) to file an amended complaint to pursue FTCA

claims against the United States and Bivens¹ claims for violations of the Fifth and Eighth Amendments against defendants Lincalis, McCarthy, Brighton, and Fox, it is hereby ORDERED that:

1. Plaintiff's motion (Doc. 24) for leave file an amended complaint is GRANTED. The Clerk of Court is directed to enter the proposed document (Doc. 33-1) as an amended complaint.
2. The Clerk of Court is directed to issue the summons with a copy of the amended complaint to the United States Marshal for service on defendant United States of America.
3. On or before February 19, 2018, defendants United States of America, Joe Lincalis, John D. McCarthy, Stephen L. Brighton, and James M. Fox shall file an answer to plaintiff's amended complaint or appropriate pretrial motion.
4. The Clerk of Court is directed to TERMINATE defendants United States Probation Office and the Federal Bureau of Prisons as parties to this action.
5. The motion (Doc. 26) to dismiss is DISMISSED as moot.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

¹ Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 446 U.S. 14 (1980).